IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24/06/2004

CORAM

THE HON'BLE MR.JUSTICE P.D.DINAKARAN
AND
THE HON'BLE MR.JUSTICE N.KANNADASAN

Habeas Corpus Petition No.278 of 2004

Arjunan .. Petitioner

-Vs-

1. The District Collector &
District Magistrate
Nagapattinam District
Nagapattinam.

2. The Secretary to Government
Prohibition and Excise Department
Fort St. George
Chennai-9. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Habeas Corpus as stated therein.

For Petitioner : Mr.R. Srinivas

For Respondents : Mr. Abudukumar Rajaratnam
Additional Public Prosecutor

:O R D E R

(The order of the Court was made by
P.D.DINAKARAN, J.)
The order of detention dated 10.2.2004 passed by the first respondent under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-Offenders, Forest-Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982, branding one Kali @ Sekar as bootlegger is challenged by the friend of the detenu.

2. The ground case is said to have taken place on 28.1.2004, wherein the detenu was found in possession of 105 litres of illicit arrack in a rubber tube containing 6.48 mg% w/v of atropine. A case was registered in Crime

No.46/2004 for the offence punishable under Sections 4(1)(aaa), 4(1)(i) read with 4(1-A) of TNP Act on the file of Valivalam Police Station. The detaining authority, taking note of the above ground case and five adverse cases of similar nature, passed the order of detention on 10.2.2004.

3. The main contention of the learned counsel for the petitioner is that even though the Magistrate remanded the detenu only for the offence punishable under Section 4(1)(aaa) of the TNP Act, in the grounds of detention, it is mentioned that the case is registered against the detenu for the offence punishable under Sections 4(1)(aaa), 4(1)(i) read with 4(1-A) of TNP Act, which is totally incorrect and the impugned order of detention is vitiated.

4. We are satisfied that apparent on the face of the record, the impugned order of detention suffers from non application of mind by the detaining authority. Therefore, on this count, the petition has to be allowed. We, therefore, allow this petition and set aside the impugned order of detention. The detenu is directed to be released forthwith, unless he is required in any other case.

The writ petition is allowed.

Index : Yes
Internet : Yes

kpl

To

1. The District Collector &
District Magistrate
Nagapattinam District
Nagapattinam.

2. The Secretary to Government
Prohibition and Excise Department
Fort St. George, Chennai-9.

3. The Public Prosecutor
High Court, Madras.

□